

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
NEWARK DIVISION**

DANIEL D'AMBLY,

Plaintiff,

v.

CHRISTIAN EXOO a/k/a ANTIFASH
GORDON; ST. LAWRENCE UNIVERSITY;
TRIBUNE PUBLISHING COMPANY; NEW
YORK DAILY NEWS; VIJAYA GADDE;
TWITTER, INC.; COHEN, WEISS AND
SIMON, LLP,

Defendants.

Civil Action No. 2:20-cv-12880-JMV-JAD

**TRIBUNE PUBLISHING COMPANY, INC.'S AND NEW YORK DAILY NEWS' JOINT
STATEMENT OF MATERIAL FACTS NOT IN DISPUTE**

In support of their Motion for Summary Judgment, Tribune Publishing Company, Inc. ("Tribune") and the New York Daily News (the "Daily News") submit this Joint Statement of Material Facts Not in Dispute in accordance with Local Rule 56.1:

1. Daniel D'Ambly is a former employee the Daily News. (Declaration of Toni Martinez at ¶ 3.)
2. D'Ambly was employed as a plate maker for 4 years and seven months and was a member of Local One-L, Graphic Communications Conference of the International Brotherhood of Teamsters (the "Union"). (Declaration of Toni Martinez at ¶ 3.)
3. For the term of January 1, 2017 to December 31, 2019, D'Ambly was elected as the Chairman of the Referendum Board, an officer position in the Union. (Declaration of Toni Martinez at ¶ 3.)
4. The Daily News paid D'Ambly \$70,344.30 in 2018. (Declaration of Toni Martinez at ¶ 4.)

5. The Daily News' Employee Handbook, which is provided to all employees, advises Daily News' employees that they have rights to bring discrimination claims under federal and state laws. (Declaration of Toni Martinez at ¶ 5; Declaration of Toni Martinez, Exhibit A – Excerpt of Employee Handbook.)
6. D'Ambly was terminated on January 18, 2019 because D'Ambly's activities with the New Jersey European Heritage Association. (Declaration of Toni Martinez at ¶ 6.)
7. Specifically, the Daily News had received threatening phone calls associated with D'Ambly's membership in the group. These calls endangered the Daily News' workplace, and terminating D'Ambly's employment mitigated that danger. (Declaration of Toni Martinez at ¶ 6; Declaration of Toni Martinez, Exhibit B – Termination Letter.)
8. On January 23, 2019, the Union filed a grievance with the American Arbitration Association on his behalf to contest his termination. (Declaration of Toni Martinez at ¶ 7.)
9. Over the next several months, the Daily News, D'Ambly, and the Union proceeded to litigate the arbitration demand. (Declaration of Toni Martinez at ¶ 8.)
10. D'Ambly was represented by counsel in the grievance proceeding. (Declaration of Toni Martinez at ¶ 8.)
11. As a result of that litigation, the Daily News, the Union, and D'Ambly entered into settlement negotiations that ultimately resulted in a Separation Agreement and Mutual General Release ("Separation Agreement"). (Declaration of Toni Martinez at ¶ 8; Declaration of Toni Martinez, Exhibit C.)
12. In exchange for withdrawing his arbitration demand and executing a mutual release of claims, the Daily News paid D'Ambly a lump sum of \$70,000. (Declaration of Toni Martinez at ¶ 9.)

13. D'Ambly was not otherwise entitled to the sum of \$70,000 through any sort of Daily News policy. (Declaration of Toni Martinez at ¶ 9.)
14. By the terms of the Separation Agreement, D'Ambly was afforded 21 days to consider, sign, and return the Separation Agreement, and an additional 7 days to revoke that agreement. (Declaration of Toni Martinez at ¶ 10.)
15. The final version of the Separation Agreement was presented to D'Ambly on September 4, 2019 and returned executed on September 9, 2019. (Declaration of Toni Martinez at ¶ 10.)
16. D'Ambly did not revoke his agreement and the Daily News paid him \$70,000 according to the Separation Agreement's terms. (Declaration of Toni Martinez at ¶ 10.)

Dated: December 17, 2020

Respectfully submitted,

/s/ Richard Scharlat

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